

REMARKS**The Rejection of Claim 1.**

The Examiner has rejected Claim 1 under 35 U.S.C. § 102 (e) as being anticipated by Perrins et al ("Perrins") in U.S. Patent Nr. 6,680,482 B1. Applicant respectfully requests reconsideration of this rejection for the following reasons:

(1) Perrins discloses a conveyor system that is typically constructed and co-located on-site with the irradiation chamber (col. 3, lines 30-33; col. 4, lines 1-2). The location of the conveyor system disclosed by Perrins is permanent (i.e., it is co-located with the irradiation chamber) because the whole purpose of the conveyor system is to move cartirdges with totes into a permanently positioned or fixed irradiation chamber. The present invention discloses a conveyor system that is mobile and capable of being placed anywhere in a vegetable processing facility, moved to a different location in that same facility or to another facility altogether, being placed in a stationary location in the field and then moved to another stationary location in the field or to another field altogether, or simply placed upon a drawn vehicle such as a wagon or cart (Patent Application /Control Number 10/659,603: page 9, lines 5-6) and moved to remain close the workers in the field.

REMARKS (continued)

Applicant has amended Claim 1 to include this mobility feature (as originally disclosed in the specification) and thereby further distinguish the present invention from the conveyor system disclosed by Perrins. Applicant believes that the mobility of the present invention is a substantial improvement over the conveyor system disclosed by Perrins and that this mobility feature readily distinguishes Applicant's conveyor system from the permanently fixed or permanently located conveyor system disclosed by Perrins. Applicant further believes that this improvement to the conveyor system disclosed by Perrins satisfies the novelty requirement articulated in 35 U.S.C. § 102 (e) well enough to overcome the Examiner's rejection based upon that section of the Patent Code. Accordingly, Applicant respectfully requests that Examiner reconsider his rejection of Claim 1.

(2) The Examiner has stated that the tote conveyor system disclosed by Perrins includes all of the claimed features of the present invention including, without limitation, "lateral support members **170, 175** attached to and on top of the vertical support members as broadly claimed." Perrins discloses the indexed

REMARKS (continued)

placement of either transfer element along tracks (165 , and 175 respectively) located at each end of the chassis (col. 9, lines 27-29). Applicant believes that this disclosure teaches that the tracks (165 and 175) are part of the horizontal positioning conveyor element and not a lateral support element. Applicant believes that the very use of the word “track” suggests that the tracks (165 and 175) are part of the horizontal positioning conveyor and not a lateral support element. Applicant further believes that Perrins disclosure of the movement of the transfer elements (col 9., lines 29-33) substantiates this interpretation. Further, Perrins also discloses a chassis (150) which can be moved along a track (50) using wheels (155) (col. 7, lines 63-64). In this embodiment, the track (50) is clearly part of the horizontal positioning conveyor element since there is no need for a lateral support element in this particular embodiment. Applicant believes Perrins’ use of the tracks (165 and 175) as part of the horizontal positioning conveyor is consistent with his use of a track (50) as part of the horizontal positioning conveyor in the preferred embodiment.

REMARKS (continued)

With respect to the proximal transfer elements (170), Perrins discloses proximal transfer elements (170) which are capable of receiving totes (col. 9, lines 4-5) and proximal transfer elements (170) which are capable of being slidably positioned along the ends of a movable chassis. Applicant believes that these proximal transfer elements (170) are, like the tracks (50, 165, and 175), part of the horizontal positioning conveyor and not lateral support members. Applicant bases this position on the fact that the proximal transfer elements (170) have totes placed upon them and are then are slidably transferred along the length or across the width of a movable chassis (col. 9, lines 31-33).

The Rejection of Claim 2.

The Examiner has rejected Claim 2 as unpatentable under 35 U.S.C. 103 (a) over Perrins et al ("Perrins") in view of Bonham et al ("Bonham"). Applicant respectfully requests reconsideration of this rejection for the following reasons:

(1) Applicant has amended Claim 1 to include the mobility feature (as disclosed in the specification) and thereby further distinguish the present invention from the conveyor system disclosed by Perrins. Applicant believes that the mobility of the

REMARKS (continued)

present invention's conveyor system is a substantial improvement over the conveyor system disclosed by Perrins. Applicant further believes that this mobility feature readily distinguishes it from the permanently fixed or permanently located conveyor system disclosed by Perrins. Given the foregoing, Applicant believes that the present invention claimed in (currently amended) Claim 1 is patentable over the conveyor system disclosed by Perrins and that any dependent claims (such as Claim 2) based upon (currently amended) Claim 1 should be allowed as well. Applicant therefore respectfully requests that Examiner reconsider his rejection of Claim 1.

(2) Applicant and Perrins both disclose an invention that moves a tote to a position where an external operation is performed on the tote. However, Perrins teaches moving a tote by means of a track system (50; FIG. 1B and FIG. 1C) that permits movement of the cartridge (100) into and out of the irradiation chamber (col. 6, lines 47-49). This track system, (the Cartridge Feed System) requires that the totes be placed in a cartridge (100) which is comprised of a chassis (150, see also FIG. 3) which can be moved along a track (50) using wheels (155) into and out of the irradiation chamber (20) (col. 7, lines 60-65). Perrins also teaches

REMARKS (continued)

moving a tote by means of a tote transfer system (FIG. 2D, FIG. 5A and FIG. 5B) comprising a plurality of transfer elements such as a distal transfer element (**160**) and a proximal transfer element (**170**) attached to a movable chassis (col. 8, lines 52-60) that slides along the horizontal support members.

As the Examiner has pointed out, Perrins does not disclose the positioning conveyor as a conveyor belt. Instead, Perrins discloses a track system or a movable chassis system to position the tote(s) under the discharge chute. The present invention (Claim 2) teaches the use of a conveyor belt (rather than the track system or the movable chassis system) to position the tote under the discharge chute. However, the Examiner has rejected Claim 2 and stated that using this externally powered conveyor belt would have been obvious to a person of ordinary skill in the art. Applicant respectfully requests that the Examiner reconsider his rejection of Claim 2 for the following additional reasons:

(1) The present invention exists in a very crowded field. Applicant has cited nine examples of relevant prior art and the Examiner has cited an additional four examples of relevant prior art. Given the number of examples of relevant prior art, any improvement (such as the use of an externally powered conveyor belt

REMARKS (continued)

as a horizontal positioning conveyor) to this crowded field should be considered significant and allowable.

(2) The simplest embodiment present invention (with externally powered conveyor belt) is commercially viable. Applicant has fabricated several models of the simplest embodiment of the present invention (with externally powered conveyor belt) for use in his own business. Further, several of Applicant's competitor's have observed Applicant's use of the simplest embodiment of the present invention (with externally powered conveyer belt) and fabricated (potentially infringing) copies of Applicant's invention for use in their (competing) businesses.

(3) The simplest embodiment present invention (with externally powered conveyor belt) has greatly improved the efficiency of field-packing freshly harvested agricultural products which is why Applicant's competitors have fabricated their own models of the simplest embodiment present invention (with externally powered conveyor belt). This improved efficiency in the field directly addresses the age-old problem of decreasing costs while increasing productivity. The simplest embodiment present invention (with externally powered conveyor

REMARKS (continued)

belt) addresses this problem by reducing manpower and increasing the volume of material packed in the field. Given the magnitude of agribusiness in the United States, Applicant believes that had the use of a conveyor belt in this fashion been obvious, it would have been introduced long ago.

The Rejection of Claim 3

The Examiner has rejected Claim 3 under 35 U.S.C. § 102 (e) as being anticipated by Perrins et al ("Perrins") in U.S. Patent Nr. 6,680,482 B1. Applicant respectfully requests that the Examiner reconsider his rejection of Claim 3 for the following reasons:

(1) Applicant has amended Claim 1 to include a mobility feature (as originally disclosed in the specification) and thereby further distinguish the present invention from the conveyor system disclosed by Perrins. Applicant believes that the mobility of the present invention is a substantial improvement over the conveyor system disclosed by Perrins and that this mobility feature readily distinguishes Applicant's conveyor system from the permanently fixed or permanently located conveyor system disclosed by Perrins. As such, Applicant believes that this

REMARKS (continued)

improvement to the conveyor system disclosed by Perrins satisfies the novelty requirement articulated in 35 U.S.C. § 102 (e) well enough to overcome the Examiner's rejection based upon that section of the Patent Code. Further, Applicant believes that since (currently amended) Claim 1 is patentable over the cited prior art, any dependent claims (such as Claim 3) which were rejected because the Examiner rejected the parent independent claim should be patentable over the cited prior art as well. Accordingly, Applicant respectfully requests that the Examiner reconsider his rejection of Claim 3.

(2) The Examiner rejected Claim 1 and stated that the tote conveyor system disclosed by Perrins includes all of the claimed features of the present invention including, without limitation, "lateral support members 170, 175 attached to and on top of the vertical support members as broadly claimed." Applicant has responded to the Examiner's comments and believes that the comments addressing the Examiner's concerns are sufficient to overcome the Examiner's rejection and that (currently amended) Claim 1 is patentable over the cited prior art. Applicant believes that since (currently amended) Claim 1 is patentable over the cited prior art, any dependent claims (such as Claim 3) which were rejected because the

REMARKS (continued)

Examiner rejected the parent independent claim should be patentable over the cited prior art as well. Accordingly, Applicant respectfully requests that the Examiner reconsider his rejection of Claim 3.

The Allowance of Claims 4-9

The Examiner has allowed Claims 4 - 9.

Prior Art of Record

In response to the Examiner's comments in paragraph 7, Applicant has reviewed the cited prior art and concurs that while it is pertinent to Applicant's disclosure, it is not disqualifying prior art.